IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 739/2005

(Deepali and Ors. V/s State of Rajasthan & Anr.)

Date of Order : 13/08/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. H.S.S.Kharlia, for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.
Mr. S.D.Vyas for the respondent NO.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners seek quashing of FIR No.03/04 registered at Police Station, Raipur, district Pali for the offences under Sections 415, 417, 420, 463, 465, 467, 471 & 120B IPC.

I have heard learned counsel for the parties.

In the instant case, on perusal of the FIR, in my view, it discloses the commission of cognizable offences and therefore, no case for quashing of FIR is made out.

It is settled law that FIR can be quashed if it does not disclose the cognizable offences or it is absurd, inherently improbable or barred by provisions of any law.

In State of Haryana and Others Vs. Bhajan Lal and Ors, 1992 (Suppl.) 1 SCC 335, Hon'ble Apex Court laid down following guidelines :-

(1)Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

The Apex Court accordingly held that if any of the conditions mentioned therein are satisfied then only the FIR can be quashed. Hon'ble Apex Court further held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

On careful perusal of the FIR, it cannot be said that the FIR is absurd, inherently improbable or barred by provisions of any law. Moreso, the matter has already been investigated by the police and after investigation, a final report under Section 173 Cr.P.C. has been filed before the Judicial Magistrate, Barr

(for short 'the trial court' hereinafter) and by order dated 30.7.2005 the trial court took the cognizance of the offences under Sections 420, 406, 380 and 120-B IPC. In view of the supervening change in the circumstances and the fact that cognizance has already been taken, no case for quashing the FIR is made out.

In the result, I do not find any merit in the criminal misc. petition and it is therefore, dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

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